

its being built on reason and deduced from some of its common principles, yet it binds not as a law till it be receiv'd by the consent of the legislature[.] There are many propositions from rational principles which carry fitness and conveniency with them, yet have not the obligation of laws." [. . . Equal division of real as well as of personal property among a man's heirs is one of these, but . . .] "the common law of England is otherwise, for it gives the freehold to the first born only. 'Tis also reasonable that all who are bound by the laws of the commonwealth should have public means afforded them of being instructed in the knowledge of them, yet there are no public law schools erected for such purposes, notwithstanding the reasonableness and—[?] of them[;] and many more reasonable propositions can be adduced which are very just and usefull, yet for want of the Legislature's authority to enjoy them they have not the force of a law[;] and were the common law of England to be receiv'd in Maryland because 'tis reasonable, so ought it to be receiv'd in Scotland likewise, seeing what is in itself reasonable in one place is so in another. But the case is quite otherwise, for the Scotch have a common law of their own extracted from the Civil Law and common customs, and founded on reason also, and are in no wise subject to the Common Law of England. The reason, then, why the inhabitants of Maryland are bound by the Common Law so far as it suits their constitution is their own consent, for 'tis not obligatory upon them by their charter, nor by any reasonableness of it which is [a] matter of moral prudence and not of civil obligation. . . ." ²³ He then proceeds to chide the lawyers for locking up the law from the people. ²⁴

It is a pity that we cannot know exactly when these reflections of the country parson were set down, whether they were made public—perhaps in his Sunday sermons—and how much influence they exerted. Among his books, we know was later one entitled "Every Man His Own Lawyer"; and of his dislike for the specialists of that profession he leaves us little doubt. We are not surprised, then, to find that his thoughts are not collected so as to utilize their full force, as is the case in Dulany's addresses; or that he is not so ready with precedents and cases as the professional lawyer. More striking than these differences, however, is the similar influence of the natural rights ideas, which is as distinctly visible in Eversfield's writings as in Dulany's. In fact, in the passage last quoted on the Common Law, he states boldly the doctrine of consent which Dulany had brought in more as an hypothesis than as a fundamental argument.

²³ Eversfield Volume, p. 321.

²⁴ Ibid. p. 322.